

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:04-cr-31-01

v.

HONORABLE PAUL L. MALONEY

CHARLES McCULLOUGH

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Charles McCullough has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 706 and 711 of the United States Sentencing Guidelines modified the Drug Quantity Table with regard to cocaine base (crack cocaine). These modifications were made retroactive effective March 8, 2008. U.S.S.G. § 1B1.10(c).

However, Defendant was sentenced to the mandatory minimum required by statute of 120 months in custody. Absent an appropriate motion filed by the Government, the Court has no authority to reduce a sentence below the mandatory minimum. Accordingly, the amendments are of no assistance to the defendant. Therefore,

**IT IS HEREBY ORDERED** that Defendant Charles McCullough's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (Dkt. #60) is **DENIED**.

Date: June 12, 2008

/s/ Paul L. Maloney

Paul L. Maloney  
United States District Judge